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OFFICE OF PETITIONS

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

In re Patent No. RE36770	:	
Issued: July 11, 2000	:	ON PETITION
Application No. 09/273,567	:	
Filed: March 22, 1999	:	
Reissue of Patent No. 5,614,737	:	
Original Issued: March 25, 1997	:	
Attorney Docket No. 105773.00110	:	

This is a request for information in response to the petition under 37 CFR 1.378(e), filed February 9, 2009, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(e) filed May 1, 2009. No additional fees are due.

The original patent issued March 25, 1997. The 3.5 year maintenance fee could have been paid from March 25, 2000, through September 25, 2000, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from September 26, 2000 to March 25, 2001. The maintenance fee was not paid. Accordingly, the patent expired at midnight on March 25, 2001.

Petitioner is required to address the following points:

- Additional information regarding the Thomson Master Data Center's IP Master docketing software and its use in the industry and why it is a reliable system.
- Explain the process used to enter petitioner's data into the Thomson Master Data Center's IP Master docketing software; more specifically, what data integrity and error checks were used in the process.
- Explain, in detail, the tests conducted to verify the completeness and reliability of the data entered into the database and provide statements from employees who were involved with the data entry.
- Explain how the data entry was accomplished and how the error may have occurred.
- The statement of Andrew Yost relative to how the alleged clerical error may have occurred is noted. It is also noted that petitioner states that petitioner was unable to secure a statement from Linda Bynum-Cosby who was the Docketing Manager at the time the alleged data entry error occurred. Mr. Yost's statement provides a context for the petition, but is of little evidentiary weight because he does not have first-hand knowledge of the events surrounding the alleged data entry error that resulted in the non-payment of the 3.5-year maintenance fee. A grantable petition under 37 CFR 1.378(b)(e) must affirmatively identify the cause of the error, which would

include the how the error occurred and who might be responsible for the error, and provide a first hand account of the circumstances relating thereto.

- It is reasonable to expect that, prior to paying a maintenance fee, petitioner might routinely check the status of the patent and might check to be sure the maintenance fee payment has been accepted by the USPTO. Yet, in this case, petitioner was aware that the 3.5-year maintenance fee due date had been docketed incorrectly previously, but petitioner thought it not reasonable or prudent to check with the USPTO to be sure the 3.5-year maintenance fee was timely received. Further, at the time the 7.5-year maintenance fee came due, petitioner still did not check the status of the patent. Once the attempt to pay the 7.5-year maintenance fee was made, petitioner did not check to be sure the 7.5-year maintenance fee was accepted. Petitioner should explain how these actions, or inactions, represent the exercise of diligence and prudence in the maintenance of the patent the demonstration of which is the hallmark of a successful petition under 37 CFR 1.378(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.



Kenya A. McLaughlin
Petition Attorney
Office of Petitions